IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

Civil Review No.62 of 1995

Judgement Reserved on : 2.4.2007

Date of decision: 10th April, 2007

D.K.Gautam ..Petitioner

Versus

State of H.P. and others ….Respondents

Coram:

The Hon'ble Mr. Justice Deepak Gupta, Judge.

The Hon'ble Mr. Justice Surinder Singh, Judge

Whether approved for reporting? No.

For the Petitioner: Mr. R.P.Singh, Advocate.

For Respondents 1 & 2 : Mr.M.S.Chandel, Advocate General, with Mr.R.M.Bisht, DAG

For Respondent No.4 to 9, 11 to 16 and 18 to 36. Mr. Shrawan Dogra, Advocate

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Deepak Gupta, J

This petition for review has been filed for recalling the order passed by a Division Bench of this Court on 23.2.1995 dismissing the petition filed by the petitioner.

The facts necessary for the disposal of the review petition are that the petitioner at the time of filing of the original writ petition in 1992 was working as lecturer in Civil Engineering in Government Polytechnic, Hamirpur, H.P. He had approached this Court with a prayer that the Government was making promotions to the higher posts as per its own Recruitment and Promotion Rules, which were not in accordance with the norms and standards laid down by the All India Council for Technical Education, New Delhi relating to the qualifications, experience, etc. of the teaching staff. The petitioner had contended that the guidelines, norms and standard laid down by the said Council (here-in-after called the

Council) were binding upon the State in terms of the All India Council for Technical Education Act, 1987.

When the petition was originally filed, petitioner had not impleaded any private respondent. On 15th July, 1993 a Division Bench of this Court had partly allowed the petition of the petitioner. Thereafter, the private respondents filed a review petition which was allowed on the ground that they (the private respondents) had not been heard and the writ was ordered to be heard again. The matter was reheard and the writ petition was rejected.

The main grievance of the petitioner is that an incorrect impression was given to the Court by the learned Deputy Advocate General that Recruitment and Promotions Rules have been amended and brought in line with the norms and standards prescribed by the Council. It is also alleged that the Court infact virtually did not consider the question that the norms and standards laid down by the council had to be followed in view of the provisions of the All India Council for Technical Education Act. On the other hand the counsel for the respondents submitted that there is no merit in the review petition as there is no error apparent on the face of the record and no case for allowing the review petition has been made out.

We have given our careful consideration to the case and find that the Court proceeded on the basis that the amendment to the Recruitment and Promotion, Rules made in the year 1993 were such that the said Rules were brought in line with the standards prescribed by the Council. This assumption appears to be factually incorrect and on the perusal of the Recruitment and Promotion Rules, we find that they are not in consonance with the guidelines laid down. Even in the reply to the review petition filed by the State, it is only stated that the Recruitment and Promotion Rules have been amended and are now "***more or less in tune with the recommendations of the All India Council for Technical Education.***" There is a great deal of difference between the Rules being

in line or in conformity with the directions of the Council or being "more or less in tune" with the recommendations of the Council.

We do not want to express any opinion on the merits of the case. We are of the view that the Division Bench proceeded on the erroneous assumption that the Rules had been brought in line with the recommendations of the All India Council for Technical Education. This assumption as held above was not correct. This is an error, apparent on the face of the record. We, therefore, allow the Review Petition, recall the judgement dated 23rd February, 1995 and direct that the Civil Writ Petition No.880 of 1992 be restored to its original number and be placed for hearing before an appropriate Bench.

(Deepak Gupta), J.

April 10, 2007 (Surinder Singh), J.
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